Energy Act 2008

2008 CHAPTER 32

PART 1

GAS IMPORTATION AND STORAGE

CHAPTER 3

STORAGE OF CARBON DIOXIDE

Enforcement

22 Offence to carry on unlicensed activities

(1) It is an offence for a person to carry on an activity within section 17(2) at a controlled place unless, at the time the activity is carried on, that person—

(a) has a licence for the carrying on of the activity at that place, or

(b) is carrying on the activity on behalf of a person who has such a licence.

(2) It is an offence for a person to cause or permit another person to commit the offence in subsection (1).

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to a fine not exceeding £50,000, or

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

(4) If the activity constituting the offence falls within section 17(2)(c), or relates to the establishment or maintenance of an installation for the purposes of an activity mentioned in that provision, subsection (3) has effect as if—

(a) the reference to £50,000 were a reference to the statutory maximum, and

(b) the reference to imprisonment were omitted.

23 Offences relating to licences

(1) An offence is committed by a licence holder if—

(a) a thing is done for which the licence specifies that the prior consent of the licensing authority or any other person is required, without that consent first having been obtained;

(b) such a thing is done in circumstances where that consent was obtained subject to conditions and those conditions have not been satisfied;

(c) the licence holder fails to keep records, give a notice or make a return or report, in accordance with the provisions of the licence;

(d) the licence holder breaches any other provision of the licence which is specified, or of a description specified, in an order made by the licensing authority.

(2) In proceedings against a person for an offence under subsection (1), it is a defence for the person to prove that due diligence was exercised to avoid committing the offence.

(3) A person guilty of an offence under subsection (1) is liable—

(a) on summary conviction, to a fine not exceeding £50,000, or

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

(4) If an offence under subsection (1) relates to an activity within section 17(2)(c), or relates to the establishment or maintenance of an installation for the purposes of an activity mentioned in that provision, subsection (3) has effect as if—

(a) the reference to £50,000 were a reference to the statutory maximum, and

(b) the reference to imprisonment were omitted.

(5) It is an offence for a person to make a statement which the person knows to be false, or recklessly to make a statement which is false, in order to obtain—

(a) a licence, or

(b) the consent of the licensing authority or any other person for the purposes of any requirement imposed by virtue of section 20(6).

(6) It is an offence for a person to fail to disclose information which the person knows, or ought to know, to be relevant to an application for—

(a) a licence, or

(b) the consent of the licensing authority or any other person for the purposes of any requirement imposed by virtue of section 20(6).

(7) A person guilty of an offence under subsection (5) or (6) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to a fine.

24 Licensing authority's power of direction

(1) This section applies if a licence holder fails to comply with any provision of the licence.

(2) The licensing authority may direct the licence holder to take steps which the licensing authority considers necessary or appropriate to comply with the provision within a period specified in the direction.

(3) The licensing authority must consult the licence holder before giving a direction under subsection (2).

(4) If the licence holder fails to comply with a direction under subsection (2), the licensing authority may—
  (a) comply with the direction on behalf of the licence holder, or
  (b) make arrangements for another person to do so.

(5) A person taking action by virtue of subsection (4) may—
  (a) do anything which the licence holder could have done, and
  (b) recover from the licence holder any reasonable costs incurred in taking the action.

(6) A person ("P") liable to pay any sum by virtue of subsection (5)(b) must also pay interest on that sum for the period beginning with the day on which the person taking action by virtue of subsection (4) notified P of the sum payable and ending with the date of payment.

(7) The rate of interest payable in accordance with subsection (6) is a rate determined by the licensing authority as comparable with commercial rates.

(8) The licence holder must provide a person taking action by virtue of subsection (4) with such assistance as the licensing authority may direct.

(9) The power to give a direction under this section is without prejudice to any provision made in the licence with regard to the enforcement of any of its provisions.

25 Failure to comply with a direction under section 24

(1) It is an offence for a person to fail to comply with a direction under section 24, unless the person proves that due diligence was exercised in order to avoid the failure.

(2) A person guilty of an offence under subsection (1) is liable—
  (a) on summary conviction, to a fine not exceeding £50,000, or
  (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or both.

26 Injunctions restraining breaches of section 17(1)

(1) Where the Scottish Ministers consider it necessary or expedient to restrain any actual or apprehended breach of section 17(1) in relation to a controlled place in, under or over the territorial sea adjacent to Scotland, they may apply to the Court of Session for an interdict.

(2) Where the Secretary of State considers it necessary or expedient to restrain any other actual or apprehended breach of section 17(1), the Secretary of State may apply—
  (a) to the High Court for an injunction, or
  (b) to the Court of Session for an interdict.

(3) An application may be made under this section whether or not the applicant has exercised or is proposing to exercise any of the other powers under this Chapter.

(4) On an application under this section, the Court of Session may grant such an interdict, or the High Court may grant such an injunction, as it thinks appropriate for the purpose of restraining the breach.

(5) Rules of court may provide for an injunction or interdict to be issued against a person whose identity is unknown.

27 Inspectors

(1) The Secretary of State may appoint persons to act as inspectors to assist in carrying out the functions of the Secretary of State under this Chapter.

(2) The Secretary of State may make payments, by way of remuneration or otherwise, to inspectors appointed under this section.

(3) The Secretary of State may make regulations about—

(a) the powers and duties of inspectors appointed under this section;

(b) the powers and duties of any other person acting on the directions of the Secretary of State in connection with a function under this Chapter;

(c) the facilities and assistance to be accorded to persons mentioned in paragraph (a) or (b).

(4) The powers conferred by virtue of subsection (3) may include powers of a kind specified in section 108(4) of the Environment Act 1995 (c. 25) (powers of entry, investigation, etc).

(5) Any regulations under this section may provide for the creation of offences which are punishable—

(a) on summary conviction by a fine not exceeding the statutory maximum or such lesser amount as is specified in the regulations, and

(b) on conviction on indictment by a fine.

(6) This section applies in relation to the Scottish Ministers and the functions of the Scottish Ministers under this Chapter as it applies in relation to the Secretary of State and the functions of the Secretary of State under this Chapter.

28 Criminal proceedings

(1) Proceedings for a relevant offence may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.

(2) Section 3 of the Territorial Waters Jurisdiction Act 1878 (c. 73) (restriction on prosecutions) does not apply to any proceedings for a relevant offence.

(3) Proceedings for a relevant offence alleged to have been committed in a controlled place may not be instituted in England and Wales except—

(a) by the Secretary of State or a person authorised by the Secretary of State, or

(b) by or with the consent of the Director of Public Prosecutions.

(4) Proceedings for a relevant offence alleged to have been committed in a controlled place may not be instituted in Northern Ireland except—

(a) by the Secretary of State or a person authorised by the Secretary of State, or

(b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(5) In the application of subsection (3) or (4) to an offence created by regulations under section 27—

(a) the words "alleged to have been committed in a controlled place" are to be omitted, and

(b) the references to a person authorised by the Secretary of State are to be read as references to an inspector appointed under that section.

(6) In this section "relevant offence" means an offence under this Chapter or created by regulations under section 27.